

Notice of Allowability

Application No.

09/888,004

Applicant(s)

PITTELLI, PATRICK

Examiner

Art Unit

Beth Van Doren

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview of 07/20/2005, see interview summary, paper no. 20050720.
2. ☒ The allowed claim(s) is/are 1-5, 7-10, 13-17 and 20-27.
3. ☒ The drawings filed on 15 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2004 02 11
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20050720
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER
AU 3623

DETAILED ACTION

1. The following is in response to the after final interview held on 07/20/05 (see interview summary, paper no. 20050720). Based on the amendments to the claims discussed and agreed to during this interview, Examiner has withdrawn the finality of the last Office action. This response includes an examiner's amendment and a statement of reason for allowance. Claims 1-5, 7-10, 13-17, and 20-27 are now pending in this applications and are allowable.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for the examiner's amendment to claims 1, 9, 10, 17, 22, 24, 26, and 27 was given in a telephone interview with Mr. Matthew Byrne on July 20, 2005. The application has been amended as follows:

In the claims:

1. A computer implemented method for determining the market demand for an artist comprising:
receiving by one or more CPUs [at a CPU] user input to determine which artists to select from a pool of artists;
determining by the one or more CPUs the market demand for each said selected artist based on users contributing money to a separate fund for each said artist;
identifying by the one or more CPUs artists that attain a predefined money level of user contributions, and providing said fund, minus a commission, for the benefit of each artist in response to the fund attaining the predefined money level of user contributions; and
providing each of at least one of the users who contributed to artists that did not attain the predefined money level of user contributions an option to be selected from a group at least comprising:
(a) a refund of the [their] money contribution;

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(b) a redistribution of the [their] money contribution to another artist from the pool of artists; and

(c) to leave the [their] money contribution undistributed in a non-artist account; and executing instructions by the one or more CPUs that result in the selected option being provided to the user.

9. An apparatus for determining the market demand for an artist comprising:
means for receiving user input to determine which artists to select from a pool of artists;
means for determining the market demand for each said selected artist based on users contributing money to a separate fund for each said artist;
means for identifying selected artists that attain a predefined money level of user contributions, and providing said fund, minus a commission, for the benefit of each artist in response to the fund attaining the predefined money level of user contributions; and
means for providing each of at least one of the users who contributed to artists that did not attain the predefined money level of user contributions an option to be selected from a group at least comprising:

(a) a refund of the [their] money contribution;
(b) a redistribution of the [their] money contribution to another artist from the pool of artists; and
(c) to leave the [their] contribution undistributed in a non-artist account, and executing instructions by the one or more CPUs that result in the selected option being provided to the user.

10. A method for an artist to obtain financial support comprising:
receiving and storing on a file server a sample of the artist's work;
evaluating the stored artist work from a pool of artists;
selecting by one or more CPUs an artist based on said artist's work to be eligible for financial contributions from users, wherein the financial contributions are money;
establishing a fund of any such contributions for an artist; [and]
determining by the one or more CPUs whether the artist achieved a certain level of contributions being made;
providing at least a substantial portion of the fund to the artist in response to the [a] certain level of contributions being made; and
providing each of at least one of the users who contributed to artists that did not meet the certain level of contributions an option to be selected from a group at least comprising:

(a) a refund of the [their] money contribution;
(b) a redistribution of the [their] money contribution to another artist from the pool of artists; and
(c) to leave the [their] money contribution undistributed in a non-artist account, and executing instructions by the one or more CPUs that result in the selected option being provided to the user.

17. A computer implemented system for determining the market demand for an artist comprising:
a file server; and
one or more processors [a processor programmed for] implementing instructions [for] to:

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receive [receiving] and store [storing] user input on said file server to determine which artists to select from a pool of artists;

determine [determining] the market demand for each said selected artist based on users contributing money to a separate fund for each said artist;

identify [identifying] artists that attain a predefined money level of user contributions, and provide [providing] said fund, minus a commission, for the benefit of each artist in response to the fund attaining the predefined money level of user contributions; and

provide each of at least one of the [providing] users who contributed to artists that did not meet the predefined money level an option to be selected from a group at least comprising:

(a) a refund of the [their] money contribution;

(b) a redistribution of the [their] money contribution to another artist from the pool of artists; and

(c) to leave the [their] money contribution undistributed in a non-artist account.

execute instructions that result in the selected option being provided to the user.

22. A computer implemented system for presenting artists to determine market demand for artists comprising a computer having instructions for implementing the method of:

receiving and storing work of artists on a file server;

categorizing by one or more CPUs [dividing] said work into categories;

selecting said work from said categories;

elevating selected works into positions that are eligible to receive direct financial support from users, wherein the financial support is money;

receiving by the one or more CPUs the direct financial support from users;

promoting by the one or more CPUs the artists who receive a predefined amount of direct financial contributions, and providing the financial contributions, minus a commission paid to the manager of the system, for the benefit of the artist in response to the artists receiving the predefined amount of direct financial contributions; and

providing each of at least one of the users who contributed to artists that did not meet the predefined amount an option to be selected from a group at least comprising:

(a) a refund of the [their] money contribution;

(b) a redistribution of the [their] money contribution to another artist; and

(c) to leave the [their] money contribution undistributed in a non-artist account, and

execute instructions by the one or more CPUs that result in the selected option being provided to the user.

24. An article comprising a computer-readable medium that stores computer-executable instructions for causing a computer system to:

receive user input to determine which artists to select from a pool of artists;

determine the market demand for each said selected artist based on users contributing money to a separate fund for each said artist;

identify artists that attain a predefined money level of user contributions, and provide said fund, minus a commission, for the benefit of each artist in response to the fund attaining the predefined money level of user contributions; and

provide each of at least one of the users who contributed to artists that did not meet the predefined amount an option to be selected from a group at least comprising:

(a) a refund of the [their] money contribution;

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(b) a redistribution of the [their] money contribution to another artist from the pool of artists; and

(c) to leave the [their] money contribution undistributed in a non-artist account, and execute instructions in the one or more CPUs that result in the selected option being provided to the user.

26. A computer implemented apparatus for determining market demand for an artist comprising:

means for receiving and storing works of artists;

means for enabling users to access the stored works;

means for receiving user input to elevate artist from the general artist pool;

means for making elevated artists eligible for financial contributions from users, wherein the financial contributions are money;

means for making financial contributions from users, wherein the financial contributions are money, available to artists in response to the financial contributions reaching a certain level of contributions; and

means for providing each of at least one of the users who contributed to artists that did not meet the level of contributions an option from a group at least comprising:

(a) a refund of the [their] money contribution;

(b) a redistribution of the [their] money contribution to another artist from the general artist pool; and

(c) to leave the [their] money contribution undistributed in a non-artist account, and execute instructions in the one or more CPUs that result in the selected option being provided to the user.

27. A method for determining the market demand for an artist, said method comprising:

receiving [at a CPU] by one or more CPUs input from a plurality of users to at least one of a plurality of artists;

selecting at least one artist from said plurality of artists to receive financial contributions from said plurality of users; end

identifying by one or more CPUs from said plurality of artists at least one artist that receives a predefined amount of said financial contributions, and providing the financial contributions, minus a commission, for the benefit of the artist in response to the artist receiving the predefined amount of financial contributions, wherein the financial contributions are money; and

providing each of at least one of the users who contributed to artists that did not meet the predefined amount of financial contributions an option from a group at least comprising:

(a) a refund of the [their] money contribution;

(b) a redistribution of the [their] money contribution to another artist from the general artist pool; and

(c) to leave the [their] money contribution undistributed in a non-artist account, and executing instructions in the one or more CPUs that result in the selected option being provided to the user.

Reasons for Allowance

3. Claims 1-5, 7-10, 13-17, and 20-27 are allowed.

4. The following is an examiner's statement of reasons for allowance: While pieces of prior art each teach many of the features of the claimed invention, there is no motivation found within the art to combine these teachings to result in the claimed subject matter and, even if one was to combine the references, the combination would not expressly result in the claimed subject matter.

The prior art references most closely resembling the Applicant's claimed invention are Chacker (U.S. 6,578,008), Riffage.com, and "7up launches a one-of-a-kind Internet Music Program" (Business Wire). The articles "Curtain closes for Riffage.com" by Lee, "Riffage.com picks up indie record label" by Borland, and "Bands and fans rub elbows on Riffage.com" by McIntosh and the screenshots of Riffage.com, dated 10/12/1999, disclose features of Riffage.com.

As for claims 1-5, 7-10, 13-17, 20-21, 24-25, and 27, none of the prior art of record, taken individually or in any combination, teaches, inter alia, an automated method, apparatus, or system where selected artists from a pool of artists receive user contributions of money (i.e. financial contributions) to a fund specific to the artist and if the artist attains a predefined money level of contributions, the fund minus a commission (i.e. a substantial portion) is provided to the artist and if not (the artist does not attain the money level), the users who contributed to artists are provided an option from the group of a refund of the contribution, a redistribution of the contribution, and leaving the money contributed in a non-artist account.

First, Chacker teaches a computer-implemented tool wherein user input determines which artist to select from a pool of artists, and then consumers support the selected artists by contributing virtual money to a fund of an artist. The tool identifies artists that attain high level of support from the consumers (by way of the virtual money and funds) and offer these artists recording contracts. However, if an artist is not doing well, each consumer moves his/her virtual money from the fund of one artist to the fund of another or sells the contribution to regain his virtual money and leaves this money as a balance in his portfolio. However, Chacker does not teach that the money contributed to the fund of an artist by users is real money, and therefore does not teach that the fund an artist attains comes directly from the users contributions or that the fund has a commission deducted before being provided.

Second, Riffage.com discloses receiving user input into the network to determine the artist with the strongest following to select from a pool of artists. The market demand for an artist is determined by considering the amount of money users contribute to the account of the artist by supporting said artist through downloads, CD purchases, t-shirt purchases, etc. Each artist that attains funds on the site is given a portion of the money of the fund to produce and commercialize the artist's band. The site keeps a portion of the money as a commission. However, Riffage.com does not teach a predefined money level that the artist must attain to be provided the fund, minus a commission, or that if the artist does not attain this predefined level that the user would choose an option of a refund, a redistribution, or to leave the money in a non-artist account.

Third, "7up launches a one-of-a-kind Internet Music Program" discloses a music competition website that awards a recording deal to an unsigned artist. Artists are entered into

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the competition via entry forms, with entries limited to 400 contestants. The entries include one or two original songs, a band photo, and biography and song lyrics. Once the entry period ends, a panel of music industry executives narrow the pool of contestants down to the top seven artists. These seven artists are then promoted on the website with users of the website voting for a favorite band. The users receive merchandise and rewards for participated. The voting period runs for a specified time period and at the period's conclusion, the winning band is selected and receives a cash prize and production by a music label. However, "7up launches a one-of-a-kind Internet Music Program" does not expressly disclose that the "votes" of the users are money, that the cash prize given to the winning artist is a fund coming directly from user contributions, that a commission is deducted from the prize. Further, since the users have not contributed money, this prior art does not teach money being refunded, redistributed, or left in a non-artist account.

As for claims 22-23 and 26, none of the prior art of record, taken individually or in any combination, teaches, inter alia, a system where selected artist or artists' works are elevated from a stored pool of artists or artists works as eligible for the financial support of money from users and, when an artist (or the artist via the work) receives a predefined amount of financial contributions (or support), the artist is provided financial contributions and if the artist does not meet the predefined amount, the users who contributed to artists are provided an option from the group of a refund of the money, a redistribution of the money, and leaving the money contributed in a non-artist account.

Chacker teaches a computer-implemented tool wherein users support artists' work by contributing virtual money to a fund of an artist, as discussed above. However, while Chacker

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discloses virtual money, Chacker does not disclose real money, and therefore is not capable of providing the artists the contributions of money.

Second, Riffage.com discloses receiving user support for an artist via a network and providing an artist money from this support, minus a portion of the money kept by the site, as discussed above. However, Riffage.com does not teach a predefined amount of financial contributions that the artist must attain to be provided the contributions and further does not teach that if the artist does not attain this predefined amount, the user is given the options of a refund, a redistribution, or leaving the money in a non-artist account.

Third, "7up launches a one-of-a-kind Internet Music Program" discloses a music competition website that awards cash prizes to unsigned artists, as discussed above. However, "7up launches a one-of-a-kind Internet Music Program" does not expressly disclose that the "votes" of the users are the financial support of money, that the cash prize given to the winning artist is a fund coming directly from financial support. Further, since the users have not contributed money, this prior art does not teach the money being refunded, redistributed, or left in a non-artist account.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tiway et al. (US 2002/0038221) discloses a reward website for the music industry that rewards an artist or label for high sales.

Lawrence et al. (US 2002/016215) discloses an on-line system including a website for fund-raising activities.

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Chacker (US 2003/0195795) discloses a website for artists that elicits support for said artists and obtains feedback concerning artistic works.

Rouchon (2001/0025259) discloses unsigned and developing artists and electronically distributing music.

Chung et al (US 2003/0018559) discloses producing a work over a network based on popularity, wherein the tool collects bids that indicate support for an artist,

Cruz (US 2002/0123924) discloses users voting on musicians and measuring demand.

Takahashi et al. (JP 411168464) discloses information selling devices and matching artists to users for sales.

Laue ("Label-Innovating Band Bringing Act to Omaha") discloses voting on music on a website so the artists get exposure.

Dyson ("Creativity Sparkles in Myriad business ideas) discloses listening to artists works and contributing to the artist through the Fairtunes tool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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July 21, 2005

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